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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**

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7 JOSEPH VALDEZ, individually and )  
8 on behalf of all others similarly situated, )

9 Plaintiffs, )

10 vs. )

11 COX COMMUNICATIONS LAS )  
12 VEGAS, INC., VIDEO INTERNET )  
13 PHONE INSTALLS, INC., QUALITY )  
14 COMMUNICATIONS, INC., SIERRA )  
15 COMMUNICATIONS, CO., )

16 Defendants. )

2:09-CV-01797-PMP-RJJ

**ORDER**

16 Before the Court for consideration are Defendant Quality Communications,  
17 Inc's fully briefed Motions to Decertify Collective Class and Sever Claims (Doc.'s  
18 #180, #181). Also before the Court is Plaintiff's Motion to File a Supplemental  
19 Response in Opposition (Doc. # 200). Having considered the arguments of counsel  
20 set forth in their papers, and at the hearing conducted on March 28, 2011, the Court  
21 finds that Defendant Quality Communications, Inc's, Motions (Doc.'s #180 & #181)  
22 must be granted.

23 After more than 18 months of litigation, Plaintiff has not identified a viable  
24 Plaintiff capable of acting as Class Representative in a class action or a collective  
25 action against the Subcontractor Defendants. Additionally, the record adduced  
26 before the Court suggests that it is highly unlikely that putative Plaintiffs qualified

1 to serve as Class Representatives would be “similarly situated” to each other,  
2 because there is no generally applicable policy or procedure employed by the  
3 Subcontractor Defendants with respect to overtime pay practices. As a result,  
4 Plaintiff is unable to meet the requirements of 29 U.S.C. § 216(b) for maintenance  
5 of a collective action. Moreover, because individual determinations would be  
6 necessary to resolve the overtime pay claims of potential Plaintiffs, the Court finds a  
7 collective action is inappropriate.

8 Having previously concluded that Plaintiff Valdez is not qualified to act as  
9 a Class Representative, and there appearing to be no other viable Plaintiff who can  
10 do so, this Court finds that Plaintiff has not demonstrated that this action should be  
11 certified conditionally or otherwise as a collective action under 29 U.S.C. § 216(b).  
12 Of course, such a finding does not preclude Plaintiff Valdez from pursuing his  
13 individual claims against each of the Defendants in this action.

14 **IT IS THEREFORE ORDERED** that Defendant Quality  
15 Communications, Inc.’s Motions to Decertify Collective Class and Sever Claims  
16 (Doc.’s #180, #181) are **GRANTED**.

17 **IT IS FURTHER ORDERED** that Plaintiff’s Motion to File a  
18 Supplemental Response in Opposition (Doc. #200) is **GRANTED**.

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20 DATED: June 20, 2011.

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23 PHILIP M. PRO  
24 United States District Judge  
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